

Vermont Psychiatric Care Hospital Policy and Procedure		
Accessing and Safeguarding Protected Health Information		
Effective: April 2014	Revised: March 2023	Due to Review: March 2025

POLICY

The Vermont Psychiatric Care Hospital (VPCH) recognizes hospitalized individuals' right to receive health care services in a private and confidential manner. VPCH personnel are required to maintain the privacy of Protected Health Information (PHI) in accordance with current Vermont Agency of Human Services (AHS) Privacy Practices, Vermont Statute, and the Healthcare Information Portability and Accountability Act (HIPAA) Privacy Rule.

Definitions:

Protected Health Information (PHI): Protected health information is the term given to health data created, received, stored, or transmitted by HIPAA-covered entities and their business associates in relation to the provision of healthcare, healthcare operations and payment for healthcare services. Protected health information is often shortened to PHI, or in the case of electronic health information, ePHI.

The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule:

The HIPAA Privacy Rule establishes national standards to protect individuals' medical records and other individually identifiable health information (collectively defined as "protected health information") and applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically. The Rule requires appropriate safeguards to protect the privacy of protected health information and sets limits and conditions on the uses and disclosures that may be made of such information without an individual's authorization. The Rule also gives individuals rights over their protected health information, including rights to examine and obtain a copy of their health records, to direct a covered entity to transmit to a third party an electronic copy of their protected health information in an electronic health record, and to request corrections.

Inquirer: An individual or entity asking questions or seeking to know more about a hospitalized individual or individuals.

Personnel: For the purposes of this policy, personnel shall refer to hospital employees, contractors, students, and volunteers who access the facility independently.

PROCEDURE

Accessing PHI

VPCH personnel shall access medical records only for the purposes of carrying out their assigned job duties as specified in their job description. Access permissions to the Electronic Health Record are granted in accordance with job duties. Medical records are maintained electronically. Documents remaining in paper form are scanned into the electronic medical

record upon completion but may also remain in paper charts to ensure ease of access to direct care personnel. Paper medical records shall only be accessed in the care location in which they are stored; paper records shall not be relocated by anyone other than the Medical Records department personnel for the purpose of appropriate archival.

VPCH personnel shall conduct all necessary discussions involving PHI in areas in which the discussion cannot be overheard by other hospitalized individuals, members of the public, or personnel who do not require access to the information to perform their position duties.

Photography/videography of any sort is prohibited in care/treatment areas of the facility.

Disclosing PHI

Individuals receiving direct services have the right to request restriction(s) of the uses and disclosures of their protected health information made in the process of carrying out treatment, payment, or health care operations or for the purpose of notifying other persons about or involving other persons in their care. Individuals receiving direct services have the right to request confidential communications of their protected health information by alternative means or at alternative locations. VPCH shall make a reasonable effort to confirm that records are received when sent.

PHI is not to be disclosed in any format without the expressed authorization of the individual or as otherwise allowed or required by applicable law.

Avoiding Inadvertent PHI Disclosure

Each hospitalized individual shall be encouraged to share their preferences regarding incoming inquiries and personnel shall document these preferences on a *Confirming Patient Status Authorization Form*. Completed forms shall be routed in accordance with form instructions and a copy shall also be kept in the Nurses Station to assure accessibility.

Personnel receiving an incoming inquiry, such as a phone call for or regarding a hospitalized individual, shall follow the following procedure to ensure the expressed preferences of hospitalized individuals are followed and inadvertent PHI disclosure is avoided:

1. Personnel shall manage such inquiry in a manner as to maintain the confidentiality of hospitalized individuals.
2. Personnel may exercise their discretion in providing information to inquirers from the following organizations, if the caller is known to personnel answering the call:
 - Department of Mental Health
 - State Sheriff's Departments
 - Vermont State Police
 - Disability Rights Vermont
 - Vermont Legal Aid
 - Vermont Designated Hospitals
 - Vermont Designated Agencies or other known service providers
 - Vermont State Courts
 - VPCH Patient Representatives

3. With the exception of inquirers referenced in the above list, whenever an inquirer is requesting to speak with a hospitalized individual or seeking information about an individual who is hospitalized, personnel shall pause the interaction to verify whether there is a current, valid release of information or other legal release, such as an applicable guardianship.
4. Review the release or the conditions of guardianship to determine the appropriate level of detail that can or cannot be shared with the inquirer.
5. At no time shall personnel who are not a member of the hospitalized individual's treatment team comment on the status of a hospitalized individual.
6. If there is no release, or the person is not a person hospitalized at VPCH, no information about the individual, including whether or not they are/were hospitalized at VPCH, can be shared with the inquirer.
*Consider using the following script when unable to disclose requested information to an inquirer:
"I cannot confirm or deny..."
7. Whenever personnel are uncertain about how to handle an inquiry, their supervisor shall be consulted for guidance.
8. When the release or the conditions of guardianship so indicate, personnel shall facilitate communication between hospitalized individuals and their friends, family, and support people, and assist in creating a system that fosters ease of access between those individuals and the person hospitalized.

Unauthorized Disclosure Reporting

VPCH personnel are required to report conduct and/or PHI disclosures which actually or potentially violate this policy or applicable law as soon as reasonably possible after it has occurred. A report of actual or potential privacy events is made by completing the Agency of Human Services (AHS) Privacy/Security Event Report form (Appendix A), which is available to personnel through the VPCH SharePoint intranet site. This form guides personnel through the applicable reporting process based on the type of conduct or disclosure they are reporting. Completed forms should be routed according to the instruction provided on the form as well as to the VPCH Chief Executive Officer or designee. The AHS Privacy Officer is responsible for tracking disclosures.

There shall be sanctions for VPCH personnel who are found to be in violation of this policy:

- State of Vermont Employed Personnel: VPCH shall take appropriate disciplinary action for violations of this policy, which shall be consistent with the disciplinary action taken for breaches of confidentiality under the Vermont Mental Health Statutes. The Vermont Mental Health Statutes provide a penalty for directly or indirectly violating the confidentiality of a hospitalized, formerly hospitalized individual, or person who has sought treatment for a mental health condition.
- Non-State Employed Personnel: For breaches of confidentiality by personnel who are not employees of the State of Vermont, VPCH shall refer the matter to their employer/supervising entity for appropriate disciplinary action and/or may terminate its business relationship with such staff or the organization as deemed appropriate.
- Good Faith Disclosure: It shall not be considered a breach of confidentiality under this policy if personnel believe in good faith that VPCH has engaged in conduct that is

unlawful (or otherwise violates professional or clinical standards), or the care, services, or conditions provided by VPCH potentially endanger one or more hospitalized individual(s), personnel, or the public, and the personnel therefore discloses Protected Health Information (PHI) to:

- A public health authority or health oversight agency authorized to investigate or oversee the conduct at issue; or
- An attorney retained by personnel or their employer/supervising entity for the purposes of determining the legal options of personnel with regard to the conduct.
- Disclosure by personnel who are Victims of Criminal Acts: It shall not be considered a breach of confidentiality under this policy if victims of a criminal act discloses PHI to a law enforcement officer, provided that the information disclosed is about the suspect perpetrator of the criminal act and the information disclosed is limited to the information listed in 45 CFR 164.512(f)(2)(i).

REFERENCES:

- AHS Privacy/Security Event Report Form, found [here](#).
- HIPAA Privacy Rule found [here](#).
- Vermont Agency of Human Services (AHS) Privacy Practices, found [here](#).
- 18 V.S.A. § 7103, Disclosure of Information, found [here](#).
- 45 CFR 164.512(f)(2)(i)., found [here](#).

Approved by	Signature	Date
Emily Hawes Commissioner Vermont Department of Mental Health	 <p>DocuSigned by: Emily Hawes C50275615A62462...</p>	3/15/2023